

BUSINESS MEETING  
BEFORE THE  
CALIFORNIA ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION

In the Matter of:                     )  
  )  
Business Meeting                     )  
  )  
\_\_\_\_\_                              )

CALIFORNIA ENERGY COMMISSION  
HEARING ROOM A  
1516 NINTH STREET  
SACRAMENTO, CALIFORNIA

WEDNESDAY, MAY 5, 2004

9:07 A.M.

Reported by:  
Peter Petty  
Contract No. 150-01-006

PETERS SHORTHAND REPORTING CORPORATION   (916) 362-2345

COMMISSIONERS PRESENT

William J. Keese, Chairman

Arthur Rosenfeld

James D. Boyd

John L. Geesman

Jackalyne Pfannenstiel

STAFF PRESENT

Robert Therkelsen, Executive Director

William Chamberlain, Chief Counsel

Jonathan Blees, Assistant Chief Counsel

William Westerfield

James Reede, Jr.

David Rubens

Gary Flamm

Caryn Holmes

Elizabeth Shirakh

ALSO PRESENT

Allan Thompson, Attorney

Robert B. Gill, Principal Electrical Engineer  
City of Riverside

Robert Sarvey

John Berdner, President  
SMA America, Inc.

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## P R O C E E D I N G S

9:07 a.m.

CHAIRMAN KEESE: Call this meeting of the Energy Commission to order. Commissioner Rosenfeld, would you lead us in the Pledge, please.

(Whereupon the Pledge of Allegiance was recited in unison.)

CHAIRMAN KEESE: A little shorter agenda than we thought we were going to have for today. Apologize for getting everybody up at 9:00 a.m.

Well, I guess before we start we should really welcome our new Commissioner Jackie Pfannenstiel. Started yesterday. Sworn in 10:23 in the morning. And ended her first sitting case, Los Esteros, at 9:15 last night.

(Laughter.)

CHAIRMAN KEESE: So we've attempted to -  
- well, we didn't plan it that way.

Consent calendar. Do I have a motion?

COMMISSIONER GEESMAN: So moved.

COMMISSIONER ROSENFELD: Second.

CHAIRMAN KEESE: Motion, Geesman;  
second, Rosenfeld.

All in favor?

1 (Ayes.)

2 CHAIRMAN KEESE: Opposed? Adopted five  
3 to nothing.

4 Item 2, Modesto Electric Generating  
5 Station. Consideration of request for  
6 reconsideration of the Commission's small power  
7 plant exemption decision for the Modesto  
8 Irrigation District's Modesto Electric Generation  
9 Station.

10 Do we have anybody in the audience on  
11 this issue?

12 COMMISSIONER BOYD: I see the proponent  
13 is here.

14 CHAIRMAN KEESE: Do we have anybody  
15 who's advocating --

16 MR. WESTERFIELD: William Westerfield --

17 CHAIRMAN KEESE: -- reconsideration?

18 MR. WESTERFIELD: Chairman Keese, I'd  
19 just point out that it does appear that Mr.  
20 Sarvey, who is advocating reconsideration, is  
21 present.

22 CHAIRMAN KEESE: That's what I would  
23 seem to note. He is not on the phone?

24 MR. WESTERFIELD: Yes, he doesn't appear  
25 to be on the phone, as well.

1 CHAIRMAN KEESE: Well, --

2 COMMISSIONER GEESMAN: Mr. Chairman, why  
3 don't we put this over until the end of the agenda  
4 in case he does happen to come on to the phone  
5 later.

6 CHAIRMAN KEESE: Okay. This is going to  
7 be a short agenda, so you're not going to have to  
8 wait too long. Thank you. That's a good idea;  
9 we'll put this one over.

10 Item 3, Riverside Small Power Plant  
11 Exemption. Possible assignment of a Siting  
12 Committee for the Riverside Energy Resource Center  
13 Small Power Plant Exemption. Mr. Reede.

14 DR. REEDE: Good morning, Chairman  
15 Keese, and to the new Commissioner, Ms.  
16 Pfannenstiel. My name is Dr. James W. Reede, Jr.  
17 I am the Commission's Energy Facility Siting  
18 Project Manager.

19 On April 29, 2004, the City of Riverside  
20 Public Utilities filed an application for a small  
21 power plant exemption. Riverside Public Utilities  
22 proposes to develop, build, own and operate a 96  
23 megawatt generation facility called Riverside  
24 Energy Resource Center.

25 This simple cycle power plant will be on

1 a 12-acre fenced site within the City of  
2 Riverside, California. The proposed site is owned  
3 by the City of Riverside, and it's immediately  
4 adjacent to the City's wastewater treatment plant  
5 in a light industrial/manufacturing area.

6 The State Treasurer has confirmed that  
7 the City of Riverside has deposited \$200,000 as  
8 potential reimbursement for this CEQA exemption  
9 review process.

10 I would ask that a Committee be  
11 appointed due to the fact that during a small  
12 power plant exemption there is no data adequacy  
13 and we immediately move into discovery. I would  
14 ask for your positive consideration.

15 CHAIRMAN KEESE: Thank you. We'd  
16 welcome a motion for a Committee on Riverside.  
17 Commissioner Boyd.

18 COMMISSIONER BOYD: So moved. A  
19 Committee consisting of our newest Commissioner as  
20 the Principal, and Commissioner Geesman as the  
21 Associate Member.

22 COMMISSIONER GEESMAN: Second.

23 CHAIRMAN KEESE: Motion, Commissioner  
24 Boyd. Second, Commissioner Geesman.

25 All in favor?

1 (Ayes.)

2 CHAIRMAN KEESE: Opposed? Committee.

3 Item 4, Morro Bay.

4 DR. REEDE: Excuse me, I believe there's  
5 a comment card on item 3.

6 CHAIRMAN KEESE: There is a comment  
7 card? Where is it floating? Is there somebody  
8 who wants --

9 DR. REEDE: Yeah, from the City of  
10 Riverside, sir.

11 CHAIRMAN KEESE: Okay.

12 MR. THOMPSON: My apologies. I thought  
13 the Public Adviser would be there.

14 CHAIRMAN KEESE: Okay. Is there  
15 somebody who would like to make a statement?

16 MR. GILL: Yes. My name is Robert Gill;  
17 I'm the Principal Engineer and Project Manager on  
18 the project for the City. I would just like to  
19 indicate that we are looking forward to working  
20 with the Commission on this siting process for the  
21 small power plant exemption.

22 We are in the process and have procured  
23 the major equipment. And our goal is to have this  
24 installed by the summer of 2005.

25 CHAIRMAN KEESE: Good, thank you. And



1 Commissioner Boyd has given us a good lead on a  
2 previous small power plant exemption. I'm sure  
3 that we'll have an expedited process with Dr.  
4 Reede, also.

5 MR. GILL: Thank you.

6 CHAIRMAN KEESE: Thank you.

7 DR. REEDE: Thank you.

8 CHAIRMAN KEESE: Item 4, Morro Bay, is  
9 put over. Item 5, El Segundo, is put over. The  
10 Commission is in continued deliberations on both  
11 of those items.

12 Item 6, the Renewable Energy Program, is  
13 put over to the meeting on the 19th of May for  
14 further legal work on the document.

15 Item 7, Senate Bill 84XX Report.  
16 Consideration and approval of the Senate Bill 84  
17 report to the Legislature on battery backup  
18 program for light emitting diodes.

19 MR. RUBENS: Good morning,  
20 Commissioners. My name is Dave Rubens, and I'm  
21 with the Public Programs Office. The Senate Bill  
22 is Senator Burton's. It's 84XX; was put in  
23 2001/2002. It requires us to have a report to the  
24 Legislative Office by June 1st of this year.

25 It has gone in front of Policy, as well

1 as Efficiency.

2 CHAIRMAN KEESE: Thank you. Any  
3 comments from the Committee.

4 COMMISSIONER ROSENFELD: I move the  
5 item.

6 CHAIRMAN KEESE: Motion, Commissioner  
7 Rosenfeld.

8 COMMISSIONER GEESMAN: Second.

9 CHAIRMAN KEESE: Second, Commissioner  
10 Geesman.

11 All in favor?

12 (Ayes.)

13 CHAIRMAN KEESE: Opposed? Adopted five  
14 to nothing. Thank you.

15 MR. RUBENS: Thank you.

16 CHAIRMAN KEESE: Item 8, Residential  
17 Lighting Standards. Approval of an option  
18 requested by the building industry on a new,  
19 limited-term option for early compliance with the  
20 residential lighting standards portion of the 2005  
21 building energy efficiency standards.

22 MR. FLAMM: Good morning, Commissioner.  
23 My name is Gary Flamm. I'm with the Energy  
24 Efficiency and Demand Analysis Office, working on  
25 the building energy standards.

1           We are seeking approval of the  
2           compliance option to the building energy standards  
3           for early compliance of the residential lighting  
4           portion of the 2005 standards. This was supported  
5           by the building industry, and it's designed to be  
6           energy neutral, and will have only positive  
7           effects on the building industry.

8           This is a limited-term compliance option  
9           that will terminate with the 2005 building energy  
10          standards come into effect.

11          CHAIRMAN KEESE: Thank you.

12          COMMISSIONER ROSENFELD: I move the  
13          item.

14          CHAIRMAN KEESE: Motion, Commissioner  
15          Rosenfeld.

16          COMMISSIONER BOYD: Second.

17          CHAIRMAN KEESE: Second, Commissioner  
18          Boyd. Any discussion?

19          All in favor?

20          (Ayes.)

21          CHAIRMAN KEESE: Opposed? Adopted five  
22          to nothing. Thank you.

23          MR. FLAMM: Thank you.

24          CHAIRMAN KEESE: Item 9. IEPR -  
25          Independent System Operator Subpoena.

1       Consideration of possible adoption of a subpoena  
2       directing the California Independent System  
3       Operator to provide data relevant to the Energy  
4       Commission's aging power plant study.

5               MS. HOLMES:  Good morning, Caryn Holmes  
6       with the Legal Office.  The data before is an  
7       administrative subpoena to the ISO for data needed  
8       for the update to the IEPR, the portion known as  
9       the aging power plant study.

10              The ISO doesn't have any objection to  
11      providing that data to us, however their federal  
12      tariff requires that they not release information  
13      except under an administrative or a judicial  
14      order.  Hence, we're asking that the Commission  
15      adopt the subpoena today.

16              The ISO counsel indicated to me late  
17      yesterday afternoon that they have no opposition  
18      to the subpoena.

19              CHAIRMAN KEESE:  Thank you.  So, a  
20      friendly subpoena.

21              COMMISSIONER GEESMAN:  So moved, Mr.  
22      Chairman.

23              CHAIRMAN KEESE:  Motion, Commissioner  
24      Geesman.

25              COMMISSIONER BOYD:  Second.

1           CHAIRMAN KEESE:   Second, Commissioner  
2   Boyd.   Discussion?

3           All in favor?

4           (Ayes.)

5           CHAIRMAN KEESE:   Opposed?   Adopted five  
6   to nothing.

7           Item 10, Digital Energy, Inc.   Possible  
8   approval of contract 400-03-008 for \$2,240,000 to  
9   provide engineering and architectural services to  
10   the Energy Commission's Bright School Energy  
11   Partnership.

12          MS. SHIRAKH:   Good morning; my name is  
13   Elizabeth Shirakh.   Today for your consideration  
14   it a \$2,240,000 contract to Digital Energy,  
15   Incorporated, to provide engineering and  
16   architectural services to the Commission's Bright  
17   Schools Energy Partnership Program and Energy  
18   Efficiency Financing Programs.

19          Digital Energy, Incorporated, team  
20   consists of ten engineering and architectural  
21   firms located statewide.   Through this contract  
22   these firms will provide technical assistance to  
23   selected public agencies such as public and  
24   nonprofit schools, colleges, and universities,  
25   city and county governments, public and nonprofit

1 hospitals, special districts and public and  
2 nonprofit public care institutions.

3 The funding sources for this three-year  
4 contract are the Petroleum Violation Escrow  
5 Account, the Energy Conservation Assistance  
6 Account, and the Interagency Agreement with the  
7 State Consumer Services Agency.

8 Typical services under this contract  
9 include review of new construction, new  
10 construction design review, identification of  
11 energy efficiency in existing buildings, and  
12 evaluation of energy generation projects.

13 This contract was reviewed and approved  
14 at the Efficiency Committee on April 7th. And I'd  
15 be happy to answer any questions.

16 CHAIRMAN KEESE: Any questions here? Do  
17 I have a motion?

18 COMMISSIONER ROSENFELD: I so move.

19 CHAIRMAN KEESE: Motion, Commissioner  
20 Rosenfeld.

21 COMMISSIONER GEESMAN: Second.

22 CHAIRMAN KEESE: Second, Commissioner  
23 Geesman.

24 CHAIRMAN KEESE: All in favor?

25 (Ayes.)

1 CHAIRMAN KEESE: Opposed? Adopted five  
2 to nothing. Thank you.

3 MS. SHIRAKH: Thank you.

4 CHAIRMAN KEESE: Minutes. Do I have a  
5 motion.

6 COMMISSIONER GEESMAN: So moved.

7 CHAIRMAN KEESE: Motion, Commissioner  
8 Geesman.

9 COMMISSIONER BOYD: Second.

10 CHAIRMAN KEESE: Second, Commissioner  
11 Boyd. I imagine we have an abstention over there.

12 COMMISSIONER PFANNENSTIEL: Abstention.

13 CHAIRMAN KEESE: All in favor?

14 (Ayes.)

15 CHAIRMAN KEESE: Opposed? Adopted four  
16 to nothing.

17 Commission Committee and Oversight.

18 COMMISSIONER GEESMAN: Mr. Chairman, we  
19 have to go back and pick up the Modesto item.

20 CHAIRMAN KEESE: Modesto, yes. We may  
21 as well do that right now.

22 COMMISSIONER GEESMAN: I think we've  
23 given Mr. Sarvey as much chance as we can.

24 CHAIRMAN KEESE: Is Mr. Sarvey here?  
25 Mr. Sarvey is not here. What we have before us is

1 a request for reconsideration of a Commission  
2 decision. I don't believe it's necessary for us  
3 to go into all the details of this.

4 We granted courtesy because Mr. Sarvey  
5 could not be at the previous one. This is a  
6 motion that generally is not appropriate. It's  
7 not an appropriate process. So I don't, unless  
8 counsel requires something, I think I would  
9 entertain a motion to deny it.

10 COMMISSIONER BOYD: So moved.

11 COMMISSIONER GEESMAN: Mr. Chairman.

12 CHAIRMAN KEESE: Motion, Commissioner  
13 Boyd. Commissioner Geesman.

14 COMMISSIONER GEESMAN: Before I second  
15 the motion, question for our counsel. And I'm  
16 operating on memory here, but didn't we grant the  
17 motion to reconsider either our last business  
18 meeting or the one before that?

19 And wouldn't -- I believe we did so on  
20 your advice -- wouldn't a motion to reaffirm our  
21 earlier decision on the substantive matters of the  
22 case be the appropriate motion now?

23 MR. BLEES: Yes, Commissioner Geesman.  
24 The procedural history of this reconsideration is  
25 complicated. The original recommendation from the



1 Chief Counsel's Office was that at what was going  
2 to be the April 7th business meeting the  
3 Commission would deny the petition on the ground  
4 as the Chairman just explained. Reconsideration  
5 is not properly a part of the SPPE process.

6 In addition, even if reconsideration  
7 were appropriate, for several reasons that are  
8 explained in the staff and applicant papers, it  
9 would be premature.

10 You might recall the April 7th business  
11 meeting was changed to April 9th. Mr. Sarvey was  
12 unable to be there on April 9th.

13 In order to give him a chance to speak,  
14 the Commission granted the petition for  
15 reconsideration even though technically it  
16 probably should have just denied it.

17 COMMISSIONER GEESMAN: So now if you  
18 assume that what we would like to do is affirm our  
19 earlier decision, shouldn't the motion be to  
20 affirm our earlier decision on the SPPE?

21 MR. BLEES: Yes. And, in fact, the  
22 draft order prepared by the Chief Counsel's  
23 Office, that's in your backup material, does  
24 exactly that. And it also establishes as the  
25 precedential decision the principle that

1 reconsideration is not applicable in SPPE  
2 proceedings.

3 COMMISSIONER GEESMAN: Mr. Chairman, if  
4 that was Commissioner Boyd's motion, I would  
5 certainly second it.

6 CHAIRMAN KEESE: Recognizing Mr.  
7 Boyd's --

8 (Laughter.)

9 COMMISSIONER BOYD: That was my motion.

10 CHAIRMAN KEESE: -- as being to adopt  
11 the order --

12 COMMISSIONER BOYD: To recommend the  
13 staff's --

14 CHAIRMAN KEESE: -- in our packet, we  
15 have a motion and we have a second by Commissioner  
16 Geesman.

17 All in favor?

18 (Ayes.)

19 CHAIRMAN KEESE: Opposed? Adopted five  
20 to nothing. Thank you.

21 Commission Committee and Oversight. Do  
22 we have any?

23 COMMISSIONER GEESMAN: I'd like to  
24 simply mention the very provocative, and I think  
25 successful, workshop that our renewables staff

1 organized for the IEPR Committee yesterday. And I  
2 wanted to thank them again for having done that.  
3 They got a very good group of the always diverse  
4 interests in the renewables field together for  
5 three different roundtable discussions that I  
6 think were very illuminating.

7 CHAIRMAN KEESE: Thank you.

8 COMMISSIONER BOYD: Hear, hear.

9 CHAIRMAN KEESE: Legislative Director's  
10 report. Well, then we'll go to the Chief  
11 Counsel's Report.

12 MR. CHAMBERLAIN: Yes, Mr. Chairman. I  
13 simply wanted to comment this morning on the fact  
14 that there is a provision of the Open Meetings Act  
15 that we have not really used very often. And that  
16 is one that allows the Commission to hold a closed  
17 session to deliberate on a decision reached in a  
18 proceeding required to be conducted according to  
19 the APA.

20 I simply mention this. Our siting  
21 process does allow the Commission to go into  
22 closed session for deliberation. In order to do  
23 so, however, the matter does have to be on the  
24 agenda. It can be on the agenda designated as a  
25 closed session, but we would have to plan in

1 advance and have it on the agenda for that  
2 purpose.

3 CHAIRMAN KEESE: Okay. Thank you. Yes,  
4 Commissioner Geesman.

5 COMMISSIONER GEESMAN: Mr. Chamberlain,  
6 are you aware of whether we have, in fact, done  
7 that before? You said we haven't used it very  
8 frequently, but have we, in fact, used it prior to  
9 now?

10 MR. CHAMBERLAIN: I can't recall exactly  
11 when, but I think we did at least once. It was  
12 quite awhile ago.

13 COMMISSIONER GEESMAN: It seemed to me  
14 that if it hasn't been our common practice, that  
15 before doing that we really ought to have some  
16 policy discussion or perhaps some advice from you  
17 as to what's most appropriate; what considerations  
18 should go into when we deliberate in executive  
19 session, versus when we deliberate in public.

20 I'm comfortable with the way we've done  
21 things in the past. And I think that if we choose  
22 to vary from that past practice we ought to have  
23 some pretty clear guidelines as to when we do vary  
24 from that past practice.

25 MR. CHAMBERLAIN: I think that's a good

1 idea. I'll give that some thought.

2 CHAIRMAN KEESE: Thank you. Executive  
3 Director's Report.

4 MR. THERKELSEN: Good morning,  
5 Commissioners. A couple things happened last week  
6 that were fun and exciting. We had our Assembly  
7 budget hearing last Wednesday. At that hearing  
8 they asked that we provide an overview of the  
9 energy situation in the state. And basically I  
10 provided them a summary of the 2003 IEPR, as it's  
11 been updated by recent materials and presentations  
12 by the Commission in electricity, natural gas and  
13 transportation fuels.

14 They did take action on the renewables  
15 March change proposal. They approved the two  
16 additional positions that the Commission  
17 requested. They also approved our BCP, which made  
18 an administrative transfer of three positions from  
19 one fund source to another fund source.

20 They did withhold action on our power  
21 plant siting program. And the reason they did  
22 that was they weren't quite sure of some internal  
23 accounting that we used in shifting some  
24 operational money and personnel services, funds  
25 within that program area. We've since met with

1 the staff and we'll meet with them again, so I  
2 don't think there's going to be any major concern.

3 They did raise a question afterwards  
4 about the status of the ERPA surcharge, what it  
5 is, what level it's at now, and what we plan to be  
6 doing in the future. And I reiterated to them  
7 that the Commission did increase the amount of the  
8 ERPA surcharge at the request of the Legislature.  
9 And that our intention was to review that this  
10 coming November and to place it where it  
11 appropriately belonged to fund the agency and its  
12 activities.

13 Our Senate budget hearing happens next  
14 week on the 13th. And right now the Senate has  
15 identified that they don't have any issues for us,  
16 so I would expect that hearing to be very brief.

17 The other thing that happened of  
18 interest last week was the rupture of the Kinder-  
19 Morgan Pipeline that delivers transportation fuels  
20 from the Bay Area to the Sacramento area. And I  
21 wanted to report that our staff was very active in  
22 that. Pat Perez, Tom Glaviano, Daryl Metz, Gordon  
23 Schremp, Scott Matthews, Claudia Chandler and  
24 Rosella Shapiro were all very much involved in  
25 that. Commissioner Boyd was also involved in that

1 and Commissioner Keese.

2 The staff did a fantastic job in terms  
3 of keeping people informed, providing information,  
4 preparing situation reports. And it was a good,  
5 unplanned test, if you will, of our contingency  
6 planning process.

7 And that's all I have to report.

8 CHAIRMAN KEESE: Thank you. Mr. Sarvey,  
9 I'd note your attendance. We postponed your  
10 issue, which was number two on our agenda. And we  
11 took up your issue just previously.

12 The easiest way to handle this is we are  
13 at the end of our session. And the public is  
14 welcome to comment for short periods of time.

15 So what I'm going to suggest is I'll  
16 briefly say that we, on April 9th, accepted for  
17 reconsideration your request with your inability  
18 to be there. We put it over till today.

19 We have denied the request on two bases.  
20 One is that the Warren Alquist Act does not  
21 provide for reconsideration of SPPEs. And  
22 secondly, that on the merits there is on valid  
23 reason to reconsider.

24 You've submitted some language here.  
25 Why don't you take time here and we've actually

1 dispenses with the issue, so why don't you make a  
2 statement and we'll see if we'll do anything else.

3 MR. SARVEY: Thank you, Commissioners.  
4 I apologize for being late. I had a prepared  
5 statement. I'd just like to give it; it's only a  
6 couple minutes.

7 CHAIRMAN KEESE: Sure.

8 MR. SARVEY: And then I'll relate to the  
9 handout that I gave to you.

10 Attached to my request for  
11 reconsideration, which you already have, is the  
12 notice of the EPA reclassification of the San  
13 Joaquin Valley to extreme, dated February 28,  
14 2004.

15 Prior to this notice the District was  
16 subject to sanctions for failing to submit an  
17 attainment plan which would demonstrate attainment  
18 of the federal one-hour ozone standard by 2005.

19 According to the District the sanctions  
20 from the failure to submit this required ozone  
21 attainment plan prevented the issuance of the  
22 authority to construct for the MEGS Facility.

23 Once the EPA accepted San Joaquin's  
24 voluntary reclassification to extreme on February  
25 28th, the sanctions were lifted. And shortly



1       thereafter, on March 8th, the District issued the  
2       authority to construct.

3               According to page 5 of the EPA notice of  
4       reclassification the San Joaquin District will be  
5       required to implement a new source review offset  
6       requirement of at least 1.5 to 1 in order to  
7       comply with the extreme area requirements and have  
8       a chance to demonstrate attainment by 2010.

9               The offset requirement is in addition to  
10      other offset requirements such as distance or  
11      interpollutant offset requirements.

12              The applicant has basically here been  
13      given an opportunity to permit this project  
14      between sanctions from the failure to submit the  
15      old attainment plan to sanctions imposed in the  
16      new extreme plan yet to be implemented.

17              This project will not be operating  
18      before the October deadline to submit this new  
19      plant; and probably will not be operating before  
20      the plan is approved early next year.

21              As the Energy Commission has  
22      demonstrated many times, compliance with future  
23      rules and attainment plans must be taken into  
24      consideration in their decisions to comply with  
25      the requirements of CEQA. A good example of this

1 is the yet-to-be-implemented federal PM2.5  
2 standards which have been considered in all recent  
3 decisions.

4 In order to reach attainment it will be  
5 important for the MEGS project to comply with the  
6 rules already outlined in this EPA notice. I  
7 believe, and the City of Ripon believes, these  
8 additional reductions can be achieved through a  
9 local emission reduction plan.

10 The handout that I gave you is an email  
11 from the City of Ripon that they asked me to  
12 present to you. And it's a condition that they  
13 are going to incorporate into their permitting  
14 procedure. And they would like to see it in your  
15 decision, as well.

16 So, basically, as you can see, we're  
17 going to hand this project over to the City of  
18 Ripon. They would like to see this condition  
19 inserted into your decision, as it will be a  
20 component of their site review.

21 I just wanted to compliment Commissioner  
22 Boyd for an excellent decision and excellent job,  
23 and thank Hearing Officer Valkosky and yourself  
24 for considering my request.

25 Thank you.

1                   CHAIRMAN KEESE: Thank you.

2                   Commissioner Boyd.

3                   COMMISSIONER BOYD: Well, I'm going to  
4 look to our staff counsel to tell me, this is  
5 seemingly a voluntary agreement on the part of the  
6 City. I guess the project proponent is entitled  
7 to a point of view on this.

8                   But I don't know if we can open the  
9 patient back up at this point in time with regard  
10 to the actions we've taken as an agency, but I  
11 guess there's nothing prohibiting the City from  
12 providing this as a condition in their permitting.  
13 And I guess it would be a compelling condition for  
14 the applicant.

15                  MR. CHAMBERLAIN: First of all,  
16 Commissioner Boyd, the Commission could reconsider  
17 the action it took earlier. I don't recommend  
18 that you do that, but you could at this point.

19                  In essence, though, the Commission has  
20 decided that it doesn't have jurisdiction over  
21 this project. The City has jurisdiction. So if  
22 the City is going to impose this condition it is  
23 capable of doing so, and doesn't need this  
24 Commission's condition put on the SPPE.

25                  COMMISSIONER BOYD: So I guess I would

1 say, Mr. Chairman, without objection from this  
2 Commissioner, who oversaw the issue, the City is  
3 free to impose its condition. But I agree with  
4 our counsel, that for us to open up the case at  
5 this point in time, is hardly appropriate or  
6 timely.

7 CHAIRMAN KEESE: Thank you. Thank you,  
8 Mr. Sarvey. Good luck.

9 Mr. Berdner, did you wish to make a  
10 statement on anything?

11 MR. BERDNER: On the renewable energy  
12 program.

13 CHAIRMAN KEESE: You know, we put that  
14 over for two weeks. We've got your submittal  
15 here.

16 MR. BERDNER: Okay.

17 CHAIRMAN KEESE: Staff check with -- you  
18 have to come to a microphone if you want to say  
19 anything. This is our period of open comment. At  
20 the end of our session you're welcome to comment  
21 on anything very briefly, so.

22 MR. BERDNER: Okay, very briefly. I'm  
23 representing SMA America. We supply a lot of the  
24 equipment for the renewable rebate program.

25 One of the things that's come to our

1 attention recently is that most of the products  
2 that are used in this program do not comply with  
3 FCC regulations. It's a federal requirement; it's  
4 a mandatory requirement.

5 So we'd like to get that added into the  
6 requirement of eligible equipment. I assume  
7 counsel would want to look into it. We've  
8 provided some backup documentation.

9 CHAIRMAN KEESE: We've put it over for  
10 two weeks for some legal --

11 MR. BERDNER: That will be fine.

12 CHAIRMAN KEESE: -- interpretations of  
13 another sort, but you're welcome to discuss it  
14 with staff offline.

15 MR. BERDNER: Great, thank you.

16 CHAIRMAN KEESE: Thank you.

17 This meeting is adjourned subject to the  
18 Commission -- we are going to go to the third  
19 floor conference room, as long as the third floor  
20 conference room is available, where the  
21 Commissioners are going to discuss Committee  
22 assignments internally with the new Commissioner,  
23 and just do general comments.

24 We intend for the item of Committee  
25 assignments to be on our agenda in two weeks.

1       We're going to have just a general conversation;  
2       no action will be taken.

3               Other than that, this meeting is  
4       adjourned.

5               (Whereupon, at 9:34 a.m., the business  
6       meeting was adjourned.)

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## CERTIFICATE OF REPORTER

I, PETER PETTY, an Electronic Reporter,  
do hereby certify that I am a disinterested person  
herein; that I recorded the foregoing California  
Energy Commission Business Meeting; that it was  
thereafter transcribed into typewriting.

I further certify that I am not of  
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